

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA**

JERRY LEWIS DEDRICK,)	
)	
Petitioner,)	
)	
v.)	CIV-05-1158-R
)	
UNITED STATES OF AMERICA,)	
)	
Respondent.)	

ORDER

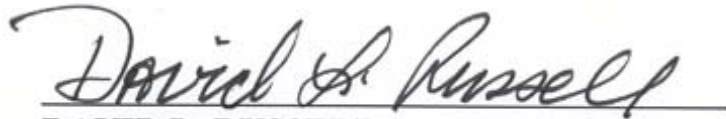
Before the Court are the Report and Recommendation of United States Magistrate Judge Gary M. Purcell entered October 18, 2005 and Petitioner's Objection to Report and Recommendation filed October 25, 2005. The basis for Petitioner's Objection is his alleged inability to obtain a modification of his sentence from the sentencing court in the Western District of Texas. Petitioner therefore seeks relief from this Court.

Upon the Court's *de novo* review, the Court concurs in the Magistrate Judge's recharacterization of the petition herein as a 28 U.S.C. § 2255 motion to vacate and his conclusion that because the motion is successive, the motion is premature and this Court lacks jurisdiction to consider it without authorization from the Fifth Circuit Court of Appeals. Moreover, even if Petitioner obtains authorization to proceed with this successive § 2255 motion, it will have to be filed in the United States District Court for the Western District of Texas.

In accordance with the foregoing, the Report and Recommendation of the Magistrate Judge is ADOPTED in its entirety, the petition herein is construed as a 28 U.S.C. § 2255

motion to vacate sentence; and so construed, the § 2255 motion herein is DISMISSED as premature and because the Court lacks jurisdiction to consider it.

IT IS SO ORDERED this 18th day of November, 2005.



DAVID L. RUSSELL
UNITED STATES DISTRICT JUDGE